

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1025

(Reference to Senate engrossed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 28-1321, Arizona Revised Statutes, is amended to
3 read:

4 28-1321. Implied consent; tests; refusal to submit to test;
5 order of suspension; hearing; review; temporary
6 permit; notification of suspension; special
7 ignition interlock restricted driver license

8 A. A person who operates a motor vehicle in this state gives
9 consent, subject to section 4-244, paragraph 34 or section 28-1381, 28-1382
10 or 28-1383, to a test or tests of the person's blood, breath, urine or
11 other bodily substance for the purpose of determining alcohol concentration
12 or drug content if the person is arrested for any offense arising out of
13 acts alleged to have been committed in violation of this chapter or section
14 4-244, paragraph 34 while the person was driving or in actual physical
15 control of a motor vehicle while under the influence of intoxicating liquor
16 as prescribed in section 28-1381 or drugs. The test or tests chosen by the
17 law enforcement agency shall be administered at the direction of a law
18 enforcement officer having reasonable grounds to believe that the person
19 was driving or in actual physical control of a motor vehicle in this state
20 either:

21 1. While under the influence of intoxicating liquor as prescribed in
22 section 28-1381 or drugs.

1 2. If the person is under twenty-one years of age, with spirituous
2 liquor in the person's body.

3 B. After an arrest a violator shall be requested to submit to and
4 successfully complete any test or tests prescribed by subsection A of this
5 section, and if the violator refuses the violator shall be informed that
6 the violator's license or permit to drive will be suspended or denied for
7 twelve months, or for two years for a second or subsequent refusal within a
8 period of eighty-four months, unless the violator expressly agrees to
9 submit to and successfully completes the test or tests. A failure to
10 expressly agree to the test or successfully complete the test is deemed a
11 refusal. The violator shall also be informed that:

12 1. If the test results show a blood or breath alcohol concentration
13 of 0.08 or more, if the results show a blood or breath alcohol
14 concentration of 0.04 or more and the violator was driving or in actual
15 physical control of a commercial motor vehicle, **A VEHICLE FOR HIRE AS
16 DEFINED IN SECTION 28-9501 OR WHILE PROVIDING TRANSPORTATION NETWORK
17 SERVICES AS DEFINED IN SECTION 28-9551 AS A TRANSPORTATION NETWORK COMPANY
18 DRIVER AS DEFINED IN SECTION 28-9551** or if the results show there is any
19 drug defined in section 13-3401 or its metabolite in the person's body and
20 the person does not possess a valid prescription for the drug, the
21 violator's license or permit to drive will be suspended or denied for not
22 less than ninety consecutive days.

23 2. The violator's driving privilege, license, permit, right to apply
24 for a license or permit or nonresident operating privilege may be issued or
25 reinstated following the period of suspension only if the violator
26 completes alcohol or other drug screening.

1 C. A person who is dead, unconscious or otherwise in a condition
2 rendering the person incapable of refusal is deemed not to have withdrawn
3 the consent provided by subsection A of this section and the test or tests
4 may be administered, subject to section 4-244, paragraph 34 or section
5 28-1381, 28-1382 or 28-1383.

6 D. If a person under arrest refuses to submit to the test designated
7 by the law enforcement agency as provided in subsection A of this section:

8 1. The test shall not be given, except as provided in section
9 28-1388, subsection E or pursuant to a search warrant.

10 2. The law enforcement officer directing the administration of the
11 test shall:

12 (a) File a certified report of the refusal with the department.

13 (b) On behalf of the department, serve an order of suspension on the
14 person that is effective thirty days after the date the order is served.

15 (c) Require the immediate surrender of any license or permit to
16 drive that is issued by this state and that is in the possession or control
17 of the person. The law enforcement agency may do either of the following
18 to a driver license or permit taken into possession under this subdivision:

19 (i) In compliance with sections 41-151.15 and 41-151.19, destroy the
20 driver license or permit.

21 (ii) Forward the driver license or permit to the department within
22 five days after the issuance of the notice of suspension.

23 (d) If the license or permit is not surrendered, state the reason
24 why it is not surrendered.

25 (e) If a valid license or permit is surrendered, issue a temporary
26 driving permit that is valid for thirty days.

27 (f) Forward the certified report of refusal, a copy of the completed
28 notice of suspension and a copy of any completed temporary permit to the
29 department within five days after the issuance of the notice of suspension.

30 E. The certified report is subject to the penalty for perjury as
31 prescribed by section 28-1561 and shall state all of the following:

1 1. The officer's reasonable grounds to believe that the arrested
2 person was driving or in actual physical control of a motor vehicle in this
3 state either:

4 (a) While under the influence of intoxicating liquor as prescribed
5 in section 28-1381 or drugs.

6 (b) If the person is under twenty-one years of age, with spirituous
7 liquor in the person's body.

8 2. The manner in which the person refused to submit to the test or
9 tests.

10 3. That the person was advised of the consequences of refusal.

11 F. On receipt of the certified report of refusal and a copy of the
12 order of suspension and on the effective date stated on the order, the
13 department shall enter the order of suspension on its records unless a
14 written or online request for a hearing as provided in this section has
15 been filed by the accused person. If the department receives only the
16 certified report of refusal, the department shall notify the person named
17 in the report in writing sent by mail that:

18 1. Thirty days after the date of issuance of the notice the
19 department will suspend the person's license or permit, driving privilege
20 or nonresident driving privilege.

21 2. The department will provide an opportunity for a hearing if the
22 person requests a hearing in writing or online and the request is received
23 by the department within thirty days after the notice is sent.

24 G. The order of suspension issued by a law enforcement officer or
25 the department under this section shall notify the person that:

26 1. The person may submit a written or online request for a hearing.

27 2. The request for a hearing must be received by the department
28 within thirty days after the date of the notice or the order of suspension
29 will become final.

30 3. The affected person's license or permit to drive or right to
31 apply for a license or permit or any nonresident operating privilege will
32 be suspended for twelve months from that date or for two years from that

1 date for a second or subsequent refusal within a period of eighty-four
2 months.

3 4. The person's driving privilege, license, permit, right to apply
4 for a license or permit or nonresident operating privilege may be issued or
5 reinstated following the period of suspension only if the person completes
6 alcohol or other drug screening.

7 H. The order for suspension shall:

8 1. Be accompanied by printed forms that are ready to mail to the
9 department, that may be filled out and signed by the person to indicate the
10 person's desire for a hearing and that advise the person that the person
11 may alternatively submit an online request for a hearing.

12 2. Advise the person that unless the person has surrendered any
13 driver license or permit issued by this state the person's hearing request
14 will not be accepted, except that the person may certify pursuant to
15 section 28-3170 that the license or permit is lost or destroyed.

16 I. On the receipt of a request for a hearing, the department shall
17 set the hearing within sixty days. The department may hold the hearing in
18 person, by telephone or by videoconference. If the department holds the
19 hearing in person, the hearing shall be held in the county in which the
20 person named in the report resides unless the law enforcement agency filing
21 the certified report of refusal pursuant to subsection D of this section
22 requests at the time of its filing that the hearing be held in the county
23 where the refusal occurred.

24 J. A timely request for a hearing stays the suspension until a
25 hearing is held, except that the department shall not return any
26 surrendered license or permit to the person but may issue temporary permits
27 to drive that expire not later than when the department has made its final
28 decision. If the person is a resident without a license or permit or has
29 an expired license or permit, the department may allow the person to apply
30 for a restricted license or permit. If the department determines the
31 person is otherwise entitled to the license or permit, the department shall
32 issue and retain a restricted license or permit subject to this section.

1 K. Hearings requested under this section shall be conducted in the
2 same manner and under the same conditions as provided in section 28-3306.
3 For the purposes of this section, the scope of the hearing shall include
4 only the issues of whether:

5 1. A law enforcement officer had reasonable grounds to believe that
6 the person was driving or was in actual physical control of a motor vehicle
7 in this state either:

8 (a) While under the influence of intoxicating liquor as prescribed
9 in section 28-1381 or drugs.

10 (b) If the person is under twenty-one years of age, with spirituous
11 liquor in the person's body.

12 2. The person was placed under arrest.

13 3. The person refused to submit to the test.

14 4. The person was informed of the consequences of refusal.

15 L. If the department determines at the hearing to suspend the
16 affected person's privilege to operate a motor vehicle, the suspension
17 provided in this section is effective thirty days after giving written
18 notice of the suspension, except that the department may issue or extend a
19 temporary license that expires on the effective date of the suspension. If
20 the person is a resident without a license or permit or has an expired
21 license or permit to operate a motor vehicle in this state, the department
22 shall deny to the person the issuance of a license or permit for a period
23 of twelve months after the order of suspension becomes effective or for a
24 period of two years after the order of suspension becomes effective for a
25 second or subsequent refusal within a period of eighty-four months, and may
26 reinstate the person's driving privilege, license, permit, right to apply
27 for a license or permit or nonresident operating privilege following the
28 period of suspension only if the person completes alcohol or other drug
29 screening.

30 M. If the suspension order is sustained after the hearing, a motion
31 for rehearing is not required. Within thirty days after a suspension order
32 is sustained, the affected person may file a petition in the superior court

1 to review the final order of suspension or denial by the department in the
2 same manner provided in section 28-3317. The court shall hear the review
3 of the final order of suspension or denial on an expedited basis.

4 N. If the suspension or determination that there should be a denial
5 of issuance is not sustained, the ruling is not admissible in and has no
6 effect on any administrative, civil or criminal court proceeding.

7 O. If it has been determined under the procedures of this section
8 that a nonresident's privilege to operate a motor vehicle in this state has
9 been suspended, the department shall give information either in writing or
10 by electronic means of the action taken to the motor vehicle administrator
11 of the state of the person's residence and of any state in which the person
12 has a license.

13 P. After completing any alcohol or other drug screening that is
14 ordered by the department pursuant to this chapter, a person whose driving
15 privilege is suspended pursuant to this section may apply to the department
16 for a special ignition interlock restricted driver license pursuant to
17 section 28-1401. Unless the certified ignition interlock period is
18 extended by the department pursuant to section 28-1461, a person who is
19 issued a special ignition interlock restricted driver license as provided
20 in this subsection shall maintain a functioning certified ignition
21 interlock device in compliance with this chapter during the remaining
22 period of the suspension prescribed by this section. This subsection does
23 not apply to a person whose driving privilege is suspended for a second or
24 subsequent refusal within a period of eighty-four months.

25 Q. Notwithstanding section 28-1401, the department may issue a
26 special ignition interlock restricted driver license to a person for an
27 offense described in subsection A of this section. A person who applies
28 for and who is issued a special ignition interlock restricted driver
29 license pursuant to this subsection agrees to the administrative action
30 taken by the department against the person's license. Once the department
31 issues a special ignition interlock restricted driver license pursuant to
32 this subsection, the person waives any right to an administrative hearing

1 contesting the administrative action against the person's license pursuant
2 to this section or section 28-1385."

3 Renumber to conform

4 Page 5, after line 25, insert:

5 "Sec. 3. Section 28-1385, Arizona Revised Statutes, is amended to
6 read:

7 28-1385. Administrative license suspension for driving under
8 the influence or for homicide or assault involving
9 a motor vehicle; report; hearing; summary review;
10 ignition interlock device requirement

11 A. A law enforcement officer shall forward to the department a
12 certified report as prescribed in subsection B of this section, subject to
13 the penalty for perjury prescribed by section 28-1561, if both of the
14 following occur:

15 1. The officer arrests a person for a violation of section 4-244,
16 paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or for a
17 violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a
18 motor vehicle.

19 2. The person submits to a test of the person's blood, breath, urine
20 or other bodily substance that is allowed by section 28-1321 or any other
21 law or a sample of blood is obtained pursuant to section 28-1388 and the
22 results are either not available or the results indicate any of the
23 following:

24 (a) 0.08 or more alcohol concentration in the person's blood or
25 breath.

26 (b) 0.04 or more alcohol concentration in the person's blood or
27 breath if the person was driving or in actual physical control of a
28 commercial motor vehicle.

29 (c) 0.04 OR MORE ALCOHOL CONCENTRATION IN THE PERSON'S BLOOD OR
30 BREATH IF THE PERSON WAS DRIVING OR IN ACTUAL PHYSICAL CONTROL OF A VEHICLE
31 FOR HIRE AS DEFINED IN SECTION 28-9501 OR WHILE PROVIDING TRANSPORTATION

1 NETWORK SERVICES AS DEFINED IN SECTION 28-9551 AS A TRANSPORTATION NETWORK
2 COMPANY DRIVER AS DEFINED IN SECTION 28-9551.

3 (d) Any drug defined in section 13-3401 or its metabolite is in the
4 person's body except if the person possesses a valid prescription for the
5 drug.

6 B. The officer shall make the certified report required by
7 subsection A of this section on forms supplied or approved by the
8 department. The report shall state information that is relevant to the
9 enforcement action, including:

10 1. Information that adequately identifies the arrested person.

11 2. A statement of the officer's grounds for belief that the person
12 was driving or in actual physical control of a motor vehicle in violation
13 of section 4-244, paragraph 34, section 28-1381, section 28-1382 or section
14 28-1383 or committed a violation of title 13, chapter 11 or section 13-1201
15 or 13-1204 involving a motor vehicle.

16 3. A statement that the person was arrested for a violation of
17 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section
18 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or
19 13-1204 involving a motor vehicle.

20 4. A report of the results of the blood or breath alcohol test that
21 was administered, if the results are available.

22 C. If a breath test is administered, a law enforcement agency shall
23 forward the certified report that is required by subsection A of this
24 section to the department within thirty days after the arrest occurs. If a
25 sample of blood, urine or other bodily substance is obtained, the law
26 enforcement agency shall forward the certified report that is required by
27 subsection A of this section to the department within thirty days after the
28 date the report of the analysis is provided to the law enforcement agency.
29 If a report is not forwarded to the department within the time limit
30 prescribed by this subsection, the report is inadmissible in a hearing held
31 pursuant to this section unless the violation listed in subsection A of
32 this section resulted in death or serious physical injury. For the

1 purposes of this subsection, "serious physical injury" has the same meaning
2 prescribed in section 13-105.

3 D. The officer shall also serve an order of suspension on the person
4 on behalf of the department. The order of suspension:

5 1. Is effective thirty days after the date it is served.

6 2. Shall require the immediate surrender of any license or permit to
7 drive that is issued by this state and that is in the possession or control
8 of the person.

9 3. Shall contain information concerning the right to a summary
10 review and hearing, including information concerning the hearing as
11 required by section 28-1321, subsections G and H.

12 4. Shall be accompanied by printed forms that are ready to mail to
13 the department, that the person may fill out and sign to indicate the
14 person's desire for a hearing or summary review and that advise the person
15 that the person may alternatively submit an online request for a hearing or
16 summary review.

17 5. Shall be entered on the department's records on receipt of the
18 report by the officer and a copy of the order of suspension.

19 6. Shall inform the person that the person's driving privilege,
20 license, permit, right to apply for a license or permit or nonresident
21 operating privilege may be issued or reinstated following the period of
22 suspension or issuance of a special ignition interlock restricted driver
23 license only if the person completes alcohol or other drug screening.

24 7. Shall contain information on alcohol or other drug education and
25 treatment programs that are provided by a facility approved by the
26 department of health services.

27 E. If the blood test result is unavailable at the time the test is
28 administered, the result shall be forwarded to the department before the
29 hearing held pursuant to this section in a form prescribed by the director.

30 F. If the license or permit is not surrendered pursuant to
31 subsection D of this section, the officer shall state the reason for the
32 nonsurrender. If a valid license or permit is surrendered, the officer

1 shall issue a temporary driving permit that is valid for thirty days. The
2 officer shall forward a copy of the completed order of suspension and a
3 copy of any completed temporary permit to the department within five days
4 after the issuance of the order of suspension along with the report. The
5 law enforcement agency may do either of the following with a valid license
6 or permit that is surrendered pursuant to this section:

7 1. In compliance with sections 41-151.15 and 41-151.19, destroy the
8 license or permit.

9 2. Forward the license or permit to the department within five days
10 after the issuance of the notice of suspension.

11 G. The department shall suspend the affected person's license or
12 permit to drive or right to apply for a license or permit or any
13 nonresident operating privilege for not less than ninety consecutive days
14 from that date. If the person is otherwise qualified, the department may
15 reinstate the person's driving privilege, license, permit, right to apply
16 for a license or permit or nonresident operating privilege following the
17 period of suspension only if the violator completes alcohol or other drug
18 screening.

19 H. Notwithstanding subsections A, B, C, D, E, F and G of this
20 section and except as provided in subsection I of this section, the
21 department shall suspend the driving privileges of the person described in
22 subsection A of this section for at least thirty consecutive days and shall
23 restrict the person's driving privileges as prescribed in section 28-144
24 for at least sixty consecutive additional days if the person:

25 1. Did not cause death or serious physical injury as defined in
26 section 13-105 to another person during the course of conduct out of which
27 the current action arose.

28 2. Has not been convicted of a violation of section 4-244, paragraph
29 34, section 28-1381, section 28-1382 or section 28-1383 within eighty-four
30 months of the date of commission of the acts out of which the current
31 action arose. The dates of commission of the acts are the determining
32 factor in applying the eighty-four month provision.

1 3. Provides satisfactory evidence to the department of the person's
2 completion of alcohol or other drug screening that is ordered by the
3 department. If the person does not complete alcohol or other drug
4 screening, the department may impose a ninety day suspension pursuant to
5 this section.

6 I. In lieu of a driving privilege suspension pursuant to subsection
7 H of this section, on a person's request, the department shall issue a
8 special ignition interlock restricted driver license to the person if the
9 requirements set forth in subsection H, paragraphs 1, 2 and 3 are met.

10 J. Notwithstanding section 28-1401, the department may issue a
11 special ignition interlock restricted driver license to a person for an
12 offense described in subsection A of this section. A person who applies
13 for and who is issued a special ignition interlock restricted driver
14 license pursuant to this subsection agrees to the administrative action
15 taken by the department against the person's license. Once the department
16 issues a special ignition interlock restricted driver license pursuant to
17 this subsection, the person waives any right to an administrative hearing
18 contesting the administrative action against the person's license pursuant
19 to this section or section 28-1321.

20 K. If the officer does not serve an order of suspension pursuant to
21 subsection D of this section and if the department does not receive the
22 report of the results of the blood or breath alcohol test pursuant to
23 subsection B, paragraph 4 of this section, but subsequently receives the
24 results and the results indicate 0.08 or more alcohol concentration in the
25 person's blood or breath, a blood or breath alcohol concentration of 0.04
26 or more and the person was driving or in actual physical control of a
27 commercial motor vehicle or any drug defined in section 13-3401 or its
28 metabolite in the person's body and the person does not possess a valid
29 prescription for the drug, the department shall notify the person named in
30 the report in writing sent by mail that thirty days after the date of
31 issuance of the notice the department will suspend the person's license or
32 permit, driving privilege or nonresident driving privilege. The notice

1 shall also state that the department will provide an opportunity for a
2 hearing and summary review if the person requests a hearing or review in
3 writing and the request is received by the department within thirty days
4 after the notice is sent.

5 L. A timely request for a hearing stays the suspension until a
6 hearing is held, except that the department shall not return any
7 surrendered license or permit to the person but may issue temporary permits
8 to drive that expire not later than when the department has made its final
9 decision. If the person is a resident without a license or permit or has
10 an expired license or permit, the department may allow the person to apply
11 for a restricted license or permit. If the department determines the person
12 is otherwise entitled to the restricted license or permit, the department
13 shall issue, but retain, the license or permit, subject to this section.
14 All hearings requested under this section shall be conducted in the same
15 manner and under the same conditions as provided in section 28-3306.

16 M. For the purposes of this section, the scope of the hearing shall
17 include only the following issues:

18 1. Whether the officer had reasonable grounds to believe the person
19 was driving or was in actual physical control of a motor vehicle while
20 under the influence of intoxicating liquor as prescribed in section 28-1381
21 or drugs.

22 2. Whether the person was placed under arrest for a violation of
23 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section
24 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or
25 13-1204 involving a motor vehicle.

26 3. Whether a test was taken, the results of which indicated any of
27 the following:

28 (a) An alcohol concentration in the person's blood or breath at the
29 time the test was administered of either:

30 (i) 0.08 or more.

31 (ii) 0.04 or more if the person was driving or in actual physical
32 control of a commercial motor vehicle.

1 (iii) 0.04 OR MORE IF THE PERSON WAS DRIVING OR IN ACTUAL PHYSICAL
2 CONTROL OF A VEHICLE FOR HIRE AS DEFINED IN SECTION 28-9501 OR WHILE
3 PROVIDING TRANSPORTATION NETWORK SERVICES AS DEFINED IN SECTION 28-9551 AS
4 A TRANSPORTATION NETWORK COMPANY DRIVER AS DEFINED IN SECTION 28-9551.

5 (b) Any drug defined in section 13-3401 or its metabolite in the
6 person's body except if the person possesses a valid prescription for the
7 drug.

8 4. Whether the testing method used was valid and reliable.

9 5. Whether the test results were accurately evaluated.

10 N. The results of the blood or breath alcohol test shall be admitted
11 on establishing the requirements in section 28-1323 or 28-1326.

12 O. If the department determines at the hearing to suspend the
13 affected person's privilege to operate a motor vehicle, the suspension
14 provided in this section is effective thirty days after giving written
15 notice of the suspension, except that the department may issue or extend a
16 temporary license that expires on the effective date of the suspension. If
17 the person is a resident without a license or permit or has an expired
18 license or permit to operate a motor vehicle in this state, the department
19 shall deny the issuance of a license or permit to the person for not less
20 than ninety consecutive days. The department may reinstate the person's
21 driving privilege, license, permit, right to apply for a license or permit
22 or nonresident operating privilege following the period of suspension only
23 if the violator completes alcohol or other drug screening.

24 P. A person may request a summary review of an order issued pursuant
25 to this section instead of a hearing at any time before the effective date
26 of the order. A timely request for summary review stays the suspension
27 until a decision is issued. The person shall submit the request in writing
28 to the department together with any written explanation as to why the
29 department should not suspend the driving privilege. The department shall
30 review all reports submitted by the officer and any written explanation
31 submitted by the person and shall determine if the order of suspension
32 should be sustained or voided. The department shall not hold a hearing, and

1 the review is not subject to title 41, chapter 6. The department shall
2 notify the person of its decision.

3 Q. If the suspension or determination that there should be a denial
4 of issuance is not sustained after a hearing or review, the ruling is not
5 admissible in and does not have any effect on any civil or criminal court
6 proceeding.

7 R. If it has been determined under the procedures of this section
8 that a nonresident's privilege to operate a motor vehicle in this state has
9 been suspended, the department shall give information either in writing or
10 by electronic means of the action taken to the motor vehicle administrator
11 of the state of the person's residence and of any state in which the person
12 has a license."

13 Amend title to conform

KEVIN PAYNE

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03/08/2024
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H: NM/lis/ra